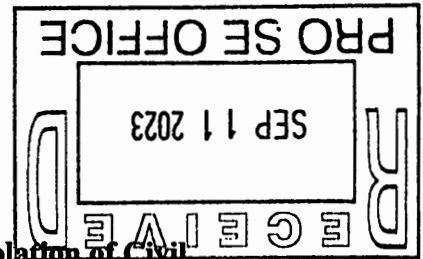


IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK



HEATHER JANSEN,

Plaintiff,

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-against-

THE CITY OF NEW YORK; NEW YORK CITY DEPARTMENT OF EDUCATION; DAVID C. BANKS, in his official capacity as Chancellor of the New York City Department of Education; MARION WILSON, in her official capacity as Superintendent of District 31 of the New York City Department of Education,

Defendants.

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

Complaint for Violation of Civil Rights
(Non-Prisoner Complaint)

Case No. 23-cv-6756
(to be filled in by the Clerk's Office)

Jury Trial: ☒ Yes ☐ No
(check one)

Gonzalez, J.

Bloom, M.J.

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed *in forma pauperis*.

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	<u>Heather Jansen</u>
Street Address	<u>13 Hampton Road</u>
City and County	<u>Monroe Township,</u>
State and Zip Code	<u>NJ, 08831</u>
Telephone Number	<u>646-957-1663</u>
E-mail Address	<u>HJansen01@yahoo.com</u>

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name	<u>The City of New York</u>
Job or Title (if known)	<u>Corporation's Counsel Office</u>
Street Address	<u>100 Church Street</u>
City and County	<u>New York</u>
State and Zip Code	<u>NY, 10007</u>
Telephone Number	<u>212-356-1000</u>
E-mail Address (if known)	<u></u>

Defendant No. 2

Name	<u>New York City Department of Education</u>
Job or Title (if known)	<u>Office of the General Counsel</u>
Street Address	<u>52 Chambers Street</u>
City and County	<u>New York</u>
State and Zip Code	<u>NY, 10007</u>
Telephone Number	<u>212-374-6888</u>
E-mail Address (if known)	<u>DOESubpoenas@schools.nyc.gov</u>

Defendant No. 3

Name	<u>David C. Banks</u>
Job or Title (if known)	<u>Chancellor of NYCDOE</u>
Street Address	<u>52 Chambers Street</u>
City and County	<u>New York</u>
State and Zip Code	<u>NY, 10007</u>
Telephone Number	<u>212-374-6000</u>
E-mail Address (if known)	<u>nycchancellor@schools.nyc.gov</u>

Defendant No. 4

Name	<u>Marion Wilson</u>
Job or Title (if known)	<u>Superintendent of District 31</u>
Street Address	<u>715 Ocean Terrace; Building A, Room 200</u>
City and County	<u>Staten Island</u>
State and Zip Code	<u>NY, 10301</u>
Telephone Number	<u>718-420-5657</u>
E-mail Address (if known)	<u>mwilson11@schools.nyc.gov</u>

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (*check all that apply*):

- ☒ State or local officials (a § 1983 claim)
☐ Federal officials (a *Bivens* claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

I am suing under Section 1983 because I believe my federal constitutional rights to equal protection under the law (Fourteenth Amendment) were violated when my supervisor harassed me based on my race and subjected me to differential treatment. Additionally, I contend that my First Amendment rights were violated when I was demoted for refusing to engage in unlawful conduct and reporting child abuse, which constitutes protected speech under the First Amendment.

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

D. Section 1983 allows defendants to be found liable only when they have acted “under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia.” 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

III. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

A. Where did the events giving rise to your claim(s) occur?

School building P.S. 46 Albert V. Maniscalco (31R046); District 31 Office

B. What date and approximate time did the events giving rise to your claim(s) occur?

Multiple dates and times between November 2022 through Present.

C. What are the facts underlying your claim(s)? *(For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)*

*PLEASE SEE ATTACHED.

1. Facts Underlying My Claim(s): Basis of Claims under 42 U.S.C. §1983 - Violation of Equal Protection Clause (Fourteenth Amendment)

The subsequent events serve to elucidate the factual foundation supporting my claims under 42 U.S.C. §1983 for the infringement of the federal constitutional or statutory civil right, specifically, the Equal Protection Clause of the Fourteenth Amendment.

In October 2021, during a phone conversation between Superintendent Wilson and me, she made racially discriminatory remarks, stating that she couldn't satisfy "white" parents due to ongoing issues at Wagner HS. Superintendent Wilson insinuated that her race influenced their perception, causing animosity regardless of her actions.

Superintendent Wilson attempted to remove Principal Lisa Esposito, a white female principal on Staten Island, allegedly based on her race and age. Superintendent Wilson not only communicated her intention to remove Principal Esposito verbally to me but also shared confidential information regarding Principal Esposito's OSI case with me. On several occasions, Superintendent Wilson referred to Principal Esposito as a "Raggedy ass white lady" due to her age, suggesting it was time for her to retire.

On or about March 2022, Superintendent Wilson informed me of her decision to reassign Principal Louis Bruschi, who is a white male principal on Staten Island. During our conversation, she remarked that he appeared to be having difficulty accepting his reassignment by a "black female". She further commented that "white males" within the district better "get used to it." Principal Bruschi was removed from his role as principal in September 2022.

On November 10, 2022, I received only one day's notice for a principal's observation, violating contractual rights. I was singled out as the only principal with such short notice. A fabricated report followed, and I submitted a rebuttal. Despite a Step 3 grievance, Chancellor Banks did not respond. The case awaits arbitration.

On November 21, 2022, Superintendent Wilson imposed restrictions on my work duties, specifically limiting me to my office. Then, on February 15, 2023, she issued a negative performance rating for my role as principal, citing concerns about the number of teacher evaluations I had conducted. It's worth noting that several of my colleagues, who come from diverse backgrounds, did not face similar duty restrictions. Despite conducting a greater number of teacher evaluations compared to them, my performance evaluation was less favorable, while theirs remained positive.

On December 7, 2022, I was summoned to a disciplinary meeting regarding a Perception Survey that was conducted during my first year as a principal (2021-2022). I had taken over the leadership of a struggling school, so while my survey results were comparatively lower, they indicated improvements and an upward trend in most areas when compared to the previous year. However, principals with lower survey scores or declining trends in their data did not receive similar requests for disciplinary meetings.

On January 12, 2023, during a check-in meeting with Superintendent Wilson, she made the following remarks: "I know you're from Brooklyn, but I'm from the Bronx, and that's not a threat." Subsequently, during a disagreement over her assessment of my performance and the support she claimed to have provided, Superintendent Wilson stated, "You could tell your narrative, but trust and believe, this dumb little black girl from the Bronx... I have my log of assistance."

On February 1, 2023, I was summoned to a disciplinary meeting for attending a Superintendent-mandated Principal's Meeting, without notifying the Superintendent. Other principals who attended the same meeting and followed the same procedure as I did, did not face similar disciplinary actions.

On February 13, 2023, Superintendent Wilson threatened discontinuation, alleging manipulation of her advice and claiming that I made the matter personal.

During a visit to PS 46, also on February 13, 2023, Superintendent Wilson pressured teachers to provide negative feedback about me, even recounting negative anecdotes. Additionally, she falsely accused me of making discriminatory remarks about staff, causing harm to my professional standing.

On February 17, my union, CSA, submitted an anti-retaliation complaint on my behalf, against Superintendent Wilson, alleging discrimination, harassment, and abusive treatment. Regrettably, the NYCDOE and Chancellor Banks did not provide a response.

On March 4, 2023, The New York Post reported on Superintendent Wilson's alleged "anti-white" texts and hiring practices. Specifically, it linked the Superintendent to texts which read, "No more white principals on my watch!" and a "strong black woman runs this bitch now." The article goes on to quote a Brooklyn principal who cited complaints by colleagues, "Many assistant principals and principals have voiced comments made by the District 31 superintendent about hiring only black administrators for vacancies. Many administrators with tenure who live in Staten Island have left for other districts."

On March 17, 2023, Superintendent Wilson emailed me a "Consideration to Discontinue" letter, citing poor performance as the reason. However, under my leadership, the school's performance was improving. Among my colleagues, fifteen come from diverse backgrounds. When comparing performance, it's evident that I achieved significantly better results in ELA (47% higher) and Math (73% higher) than these colleagues. Notably, none of them received negative performance evaluations or faced the prospect of discontinuation.

On May 12, 2023, I submitted a complaint to the Special Commissioner of Investigation for the NYC School District (SCI) against Superintendent Wilson. The complaint cited allegations of racial discrimination and retaliation. This action was prompted by a text message I received in which Superintendent Wilson made a remark stating, "She (Jansen) probably didn't know what hit her when they pulled her white ass out (of the school building)."

2. Facts Underlying My Claim(s): Basis of Claims under 42 U.S.C. §1983 - Violation of First Amendment (Freedom of Speech and Expression)

The subsequent events provide a factual foundation for my claims under 42 U.S.C. §1983, alleging the violation of a federal constitutional or statutory civil right, specifically, the First Amendment pertaining to freedom of speech and expression.

On November 18, 2022, my cell phone was stolen from my office by a classroom teacher, G.S.D. I was advised by DOE legal to report this incident to multiple authorities, including SCI, NYPD, and the NYCDOE OORS Reporting System. Subsequently, the teacher acknowledged taking the phone, which was later discovered in her bag. As a result, she was escorted out of the building by law enforcement.

On November 21, 2022, I received a directive from Superintendent Wilson instructing me to stay in my office. It was later determined that the teacher, G.S.D. who had stolen my cell phone would not

be subject to reassignment or any disciplinary actions due to her familial political connections. Consequently, she was allowed to return to the building, and I was required to remain in my office until further notice to alleviate the situation.

On December 21, 2022, I was absent from work due to COVID. During my absence, a supervisor filling in for me reported Teacher G.S.D. to SCI for inappropriate conduct with a first-grade student. I received an email from DOE Legal and Superintendent Wilson, suggesting my Assistant Principal conduct the investigation due to a conflict of interest that had arisen on November 18, 2022. Although the allegation was substantiated, DOE Legal informed my assistant principal that it was too late to issue a letter to the teacher, resulting in no consequences for the teacher's actions.

On January 6, 2023, a parent lodged a complaint against Teacher G.S.D. alleging verbal abuse towards her 7-year-old daughter. The complaint was reported to SCI, NYPD, and the Superintendent. DOE Legal advised me to assign the investigation to my assistant principal. I later learned my assistant principal did not initiate the investigation until March, at which point students involved could not recall the details, leading to an unsubstantiated claim.

On January 11, 2023, I received an email from Teacher G.S.D. requesting that the Assistant Principal oversee an upcoming grievance meeting regarding a teacher's salary. Superintendent Wilson approved this request, effectively bypassing my role as the principal of the building. It's important to note that Teacher G.S.D. was not the subject of this grievance, yet I was still deprived of my duties.

On April 24, Superintendent Wilson instructed me to conceal an incident of physical abuse by teacher G.S.D. against a first-grade student, but I refused, following proper protocols.

On April 27, 2023, I received a telephone call from the Borough Safety Director, who directed me to contact the New York Police Department (NYPD) first thing in the morning, regarding the incident that transpired on April 24, 2023, involving Teacher G.S.D. Subsequently, I communicated this directive to DOE Legal via email, copying the Superintendent and her team for their awareness.

On April 28, 2023, the Assistant Principal of P.S. 46 was heard informing staff members that Superintendent Wilson contacted the UFT District Representative, Sean Rotkowitz, to warn Teacher G.S.D. not to come to work due to concerns that I was attempting to have her arrested "again." Consequently, at around 7:30 am, Teacher G.S.D. contacted the school office to report feeling sick.

On April 30, 2023, I received an email informing me of a sudden reassignment to the District Office, with instructions not to return to P.S. 46. Despite my inquiry regarding the reason for this reassignment, I did not receive a response.

On May 1, 2023, the substitute paraprofessional who witnessed the alleged abuse was suspended. Simultaneously, the student who was reportedly subjected to abuse was relocated from her Integrated Co-Teaching (ICT) classroom to a more inclusive 12:1:1 classroom setting. Teacher G.S.D. continued to teach in her original classroom without facing any apparent consequences.

On May 2, 2023, I received an email from the Office of Special Investigations (OSI) indicating that the investigation I initiated against Teacher G.S.D. on April 24, 2023, is being recalled, as per DOE Legal's request.

On May 4, 2023, following communication to Chancellor Banks and the NYCDOE from P.S. 46 families and staff regarding concerns of a potential cover-up, Superintendent Wilson directed Assistant Principal Tara Forde to create/falsify a new OORS entry. This new entry stated that the superintendent was not informed of the physical abuse until May 3, 2023. It's important to note that

creating this report in OORS triggers the initiation of a new investigation by the Office of Special Investigations (OSI).

On May 8, 2023, I received an email from the Office of Employee Relations' Reassignment Unit that effective May 9, 2023, Teacher G.S.D. will not be reporting to the school building due to an investigation.

On May 9, 2023, Superintendent Wilson conducted a meeting with families and staff at PS 46. During this meeting, she falsely stated that she had only recently become aware of the physical assault allegation. In a one-on-one conversation with the parent of the physically assaulted child, Superintendent Wilson made claims that the "KKK" was after her, despite her assistance to "white" people in Staten Island. She further mentioned, "Us People" need to stick together.

On May 26, 2023, while on FMLA leave, I received two letters notifying me of entries to my personnel file. These letters were connected to closed OSI cases that had surpassed the 90-day limit for such actions, which constitutes a breach of my contractual rights. I pursued this matter through the formal grievance process, including Step 1 and Step 3, but I have not received any response from Superintendent Wilson or Chancellor Banks. Currently, I am awaiting an arbitration date to address this issue.

The culmination of these retaliatory actions came on June 2, 2023, when I was first demoted from my role as Principal of P.S. 46 Albert V. Maniscalco School to an Education Administrator (EA), and then further demoted from an EA to a teacher; effectively a two-fold demotion within the span of an hour. This abrupt and disproportionate demotion had no basis in legitimate performance concerns. Rather, I firmly believe it was explicitly linked to my race and my refusal to participate in covering up the ongoing abuse involving Teacher G.S.D., which I suspect was due to her familial political connections. This demotion represents a direct infringement on my rights and a clear instance of workplace discrimination.

IV. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

I was prescribed medication to address symptoms related to anxiety, depression, and migraines, which arose as a result of the persistent harassment and intimidation I experienced under the supervision of Superintendent Marion Wilson. I began my FMLA leave on May 1, 2023, to address this medical condition.

Additionally, I was involved in two distinct car accidents where I rear-ended another vehicle. One on November 18, 2022, causing severe bruising to my legs and again on August 7, 2023. I attribute these accidents, to the challenges I've faced in maintaining focus due to the ongoing harassment I've been subjected to.

V. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

1. Reinstatement to my previous position: I request to be reinstated to the position from which I was unjustly demoted due to racial discrimination by my supervisor.

2. Compensation for lost wages and benefits: I am seeking compensation for the wages, salary, and benefits that I have lost as a result of my demotion and any subsequent damages related to the discriminatory actions.

3. Punitive damages: I request punitive damages to serve as a deterrent against such discriminatory behavior in the future and as a punishment for the intentional discrimination I have endured. Amount to be determined at trial.

4. I request any other relief that the court deems just and appropriate under the circumstances.

VI. Certification and Closing

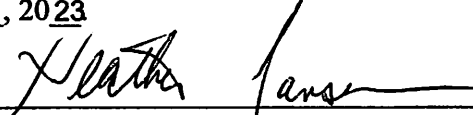
Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: Sept. 11, 2023

Signature of Plaintiff

A handwritten signature in black ink, appearing to read "Heather Jansen", written over a horizontal line.

Printed Name of Plaintiff

Heather Jansen